

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALBERTO ESCARENO SANCHEZ,

Defendant.

CR 20–36–M–DLC

ORDER

Before the Court is United States Magistrate Judge Kathleen L. DeSoto’s Findings and Recommendation Concerning Plea. (Doc. 37.) Because neither party objected, they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Mr. Escareno-Sanchez is charged with one count of conspiracy to possess with intent to distribute and to distribute methamphetamine, in violation of 21 U.S.C. § 846, three counts of possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1), and one count of

possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i). (Doc. 10.) The Indictment also contains a forfeiture allegation. (*Id.*)

Based on Mr. Escareno-Sanchez's appearance before Judge DeSoto, pursuant to Federal Rule of Criminal Procedure 11, she recommends that this Court adjudge him guilty of one count of possession with intent to distribute controlled substances, in violation of 21 U.S.C. § 841(a)(1). (Doc. 37.) Judge DeSoto also recommends that this Court defer acceptance of the Plea Agreement (Doc. 28) until it has reviewed the agreement and the Presentence Investigation Report and impose the agreed forfeiture against him. (Doc. 37.) Reviewing these recommendations for clear error, the Court finds none.

Accordingly, IT IS ORDERED that the Court ADOPTS the Findings and Recommendation (Doc. 37) IN FULL.

IT IS FURTHER ORDERED that Mr. Escareno-Sanchez's motion to change plea (Doc. 25) is GRANTED, and he is adjudged guilty of one count of possession with intent to distribute controlled substances, in violation of 21 U.S.C. § 841(a)(1).

IT IS FURTHER ORDERED that in light of the United States' Unopposed Motion for Preliminary Order of Forfeiture (Doc. 43), the Court will adjudicate the issue of forfeiture by separate order.

DATED this 19th day of March, 2021.

A handwritten signature in blue ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large initial "D".

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Dana L. Christensen, District Judge  
United States District Court